

ATTACHMENT 76

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4 Lead Case No. 3:21-cv-03825-VC
5

6 -----x

7 IN RE: Da Vinci SURGICAL ROBOT
ANTITRUST LITIGATION

8 -----x

9 AND RELATED CASE.
-----x

10 March 17, 2023

10:05 a.m.

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13
14 Remote Virtual Zoom Deposition of EINER
15 RICHARD ELHAUGE, take Defendant, pursuant to Notice,
16 with the Witness located in Newton, Massachusetts
17 before William Visconti, a Shorthand Reporter and
18 Notary Public within and for the State of New
19 York.
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25

1 EINER ELHAUGE

2 Q. So have you done an analysis
3 as to whether or not output would be increased
4 in the but for world?

5 A. I think it would be increased to
6 be conservative, you could probably estimate
7 how much it would increase. I assumed it
8 wouldn't have increased -- to be conservative
9 in my damages analysis I assumed the output
10 would not increase, but in fact I think it
11 would increase in the but for world as thus
12 indicating my damages analysis was highly
13 conservative.

14 But in order, because it's hard to
15 estimate just how much it would have increased,
16 I have conservatively assumed no increase in
17 output in my damages analysis. The but for
18 output would the not increase.

19 Q. What I'm trying to understand is
20 not really about your damage analysis. But you
21 have claimed that offering direct evidence
22 market power. And I understand that you claim
23 that you have offered evidence of super
24 competitive pricing and I want to try to
25 understand what evidence you think there is of

1 EINER ELHAUGE

2 restricted output.

3 So far I think I've heard you say
4 that the natural affect of higher prices you
5 think is restrictive output; is that right?

6 A. Well, it a matter of economic
7 theory, increasing prices reduces output. I
8 didn't rely on direct evidence of an output
9 affect in my market power analysis, I dont
10 believe.

11 MS. BASS: Off the record.

12 THE VIDEOGRAPHER: The time now
13 6:41 going off the video record.

14 (Recess Taken.)

15 THE VIDEOGRAPHER: The time is now
16 6:43 back on the video record.

17 BY MS. BASS:

18 Q. Professor Elhauge, it was cutting
19 out a little bit there at the end, but I think
20 you were trying to say you were not relying on
21 a output affect for your direct evidence of
22 market power; is that right?

23 A. I don't believe I cited it there.
24 I believe I cited it in anticompetitive effects
25 section is my recollection. But that I -- in

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, WILLIAM VISCONTI, a Shorthand Reporter and
Notary Public within and for the State of New York,
do hereby certify:

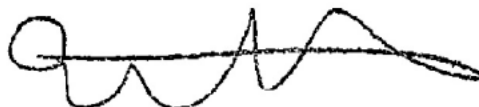
That prior to being examined, the witness named in
the foregoing deposition was duly sworn to testify the truth,
the whole truth, and nothing but the truth;

That said deposition was taken down by me in
shorthand at the time and place therein named and
thereafter reduced by me to typewritten form and that the
same is a true, correct, and complete transcript of said
proceedings.

Before completion of the deposition, review of the
transcript [X] was [] was not requested. If requested,
any changes made by the deponent (and provided to the
reporter) during the period allowed are appended hereto.

I further certify that I am not interested in the
outcome of the action.

Witness my hand this 23rd day of March, 2023.



WILLIAM VISCONTI